

OPINION
49-51

March 23, 1949

ELECTIONS - Qualification for Village Office

Your letter of March 21, relating to the village election at Zap, has been received and referred to my desk.

It is the opinion of this office that one who has not resided in the village for a period of at least nine months prior to the date of election is not a qualified candidate and even though he receives a majority of the votes he cannot qualify. The provisions of section 40-1301, providing that no one can hold an elective office in a village unless he has resided therein for a period of nine months preceding the election is in our opinion the "otherwise specially provided" found in section 44-0101. As a general rule, of course, anyone entitled to vote for an office may be a candidate for such office. However, we have many offices, both municipal, county, and state, which can be occupied only by specially qualified persons. For instance, any qualified elector can vote for the office of state's attorney, but he cannot hold the office unless he is an attorney. We agree with your interpretation of section 44-0101 and section 40-1301.

Since the candidate designated "D" in your letter cannot qualify for the office, there were only three qualified candidates voted for. It is our opinion, therefore, that candidates designated "A" and "E" were duly elected and these two will fill the two offices which were vacant by reason of the expiration of the term of the incumbent.